IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION NO : 36652 of 1998

Between:

K.Saibaba, S/o Adinarayana,
Board of Intermediate Education , Hyderabad,
R/o Hyderabad.

..... PETITIONER

AND

1. The Board of Intermediate Education, represented by its Secretary,
   Andhra Pradesh, Hyderabad.
2. The Vice Chairman, Board of Intermediate Education,
Andhra Pradesh , Hdyerabad.
3. The Chairman, Board of Intermediate Education,
   Andhra Pradesh , Hyderabad

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction particularly one in the nature of Writ of Certiorari after calling for the records pertaining to proceedings No.2074/A.A3/94, dated 31-1-95 especially the order passed by the chairman in the note file on petitioner's appeal dated 14-9-94, confirming the proceedings in Rc. No/.114/A2/86 dated 23-2-89 of the Secretary and also the orders of the vice Chairman communicated in Proc. No.142/A2/92 dated 20-8-92 and quash the same as being illegal , arbitrary and violative of the principles of natural justice and pass such other order or orders as may deem fit.

Counsel for the Petitioner: MR.M. Panduranga Rao

Counsel for the Respondents: MR.K.BASAVAIAH

The Court made the following

ORDER:

The writ petition is filed seeking a Certiorari calling for the records pertaining to proceedings No.2074/A.A3/94, dated
31-01-1995 and the order passed by the Chairman of the Board of Intermediate Education in the Note File on the petitioner's Appeal, dated 14-09-1994, confirming the proceedings in Rc.No.114/A2/86, dated 23-02-1989 of the Secretary of the Board and also the orders of the Vice Chairman of the Board communicated in proceedings No.142/A2/92, dated
20-08-1992 as illegal and arbitrary.

The petitioner was originally appointed as a Typist in the Board of Intermediate Education in the year 1974. He was promoted as Upper Division Clerk with effect from 22-04-1981 and posted in the office of the Regional Inspection Officer, Warangal. Thereafter, by proceedings dated 17-08-1981,
he was relieved from the office of the Regional Inspection Officer, Warangal, and posted as Senior Assistant (U.D.C.) and was directed to report for duty forthwith in the office of the Secretary, Board of Intermediate Education, Hyderabad.
While so, the petitioner fell sick on 23-10-1983 and was admitted in a private hospital and from 24-10-1983 to
26-10-1983 he was in the hospital. The then Secretary, Board of Intermediate Education was inimically disposed of towards him and issued a Memo, dated 02-01-1985 alleging that the petitioner had unauthorizedly absented from 19-07-1984 and he was in the habit of going on long leave without prior permission. Further, he did not pass the account test for Subordinate Officers. However, without conducting any enquiry, the petitioner was reverted to the post of Typist. Having not satisfied with the same, another set of allegations were made on 04-05-1985 saying that he had unauthorizedly absented from 19-07-1984 and was in the habit of going on long

leave without prior permission and the petitioner failed to furnish his leave address and also failed to correct himself. Therefore, a show cause notice was issued asking him to explain as to why one increment should not be withheld without cumulative effect. While so, the petitioner received the reminder dated 08-08-1985 on 13-08-1985 asking him to submit explanation to the Memo dated 30-10-1984 wherein it was alleged that as Senior Assistant of the Board of Intermediate Education, the petitioner went to A.B.M. Junior College, Warangal, before commencement of Intermediate Public Examinations, October 1983 and added six names in the nominal rolls of the said College in his own hand writing, informing that the orders of change of Centre for those candidates was approved in the office of the Board of Intermediate Education and they were on the way. A memo was issued to this extent and the petitioner submitted his explanation. However, an enquiry officer was appointed and the enquiry officer submitted a report holding the petitioner guilty of charges and the Appellate Authority finally passed the orders dated 23-02-1989 imposing the punishment of reverting the petitioner to the minimum time scale in the post of Typist.

The appeal filed by him to the Chairman of the Board, also failed. Hence, this writ petition.

The learned counsel for the petitioner strenuously contends that the enquiry was not properly conducted and the evidence was not properly appreciated. The punishment imposed is highly disproportionate to that of mis-conduct, even if, the charges are proved.

Per contra, the learned counsel for the respondents, though no counter affidavit is filed, contends that the petitioner committed grave misconduct of adding six names in the nominal rolls of the said College and making the endorsement in his own handwriting. Therefore, the punishment imposed is just and proper and does not call for the interference of this Court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and also gone through the impugned proceedings and other material available on record.

At the out set, I am of the considered view that the order passed by the Secretary, Board of Intermediate Education, as confirmed by the Appellate Authority, does not suffer from any infirmity requiring interference of this Court under Article 226 of the

Constitution of India.

The fact of adding six names in the nominal rolls of the A.B.M. Junior College, Warangal, has been proved beyond any doubt and it is in his own handwriting and there is no proper explanation submitted by the petitioner for the same. This is nothing but manipulating the records of the Board of Intermediate Education and A.B.M. Junior College, to help some students who are not entitled for being added in the nominal rolls list, to enable them to write examinations by fraudulent means. In fact, though the past conduct of the petitioner was not good, the department itself has taken a lenient view and imposed a lesser punishment of reversion of the petitioner to the minimum time scale in the cadre of Typist. The same cannot be said to be either arbitrary or illegal. The respondents have not committed any illegality or irregularity in passing such orders requiring interference of this Court under Article 226 of the Constitution of India. Therefore, the writ petition is devoid of merit and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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C.V. RAMULU, J

Date: 24th June, 2005

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ASSISTANT REGISTRAR

To

1. The Secretary, Board of Intermediate Education, Andhra Pradesh, Hyderabad.
2. The Vice Chairman, Board of Intermediate Education,
Andhra Pradesh , Hdyerabad.
3. The Chairman, Board of Intermediate Education, Andhra Pradesh , Hyderabad

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